

letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates (or affidavits in lieu thereof) to the Exchange Agent and shall be in such form and have such other provisions as Hughes may specify and which are reasonably acceptable to EchoStar), and (ii) instructions for effecting the surrender of the Certificates in exchange for certificates representing (or other evidence of ownership of) shares of Hughes Class A Common Stock or Hughes Class B Common Stock, as applicable, and cash in lieu of fractional shares. Upon surrender of a Certificate for cancellation to the Exchange Agent, together with a duly executed letter of transmittal, the holder of such Certificate shall be entitled to receive in exchange therefor (x) a certificate representing (or other evidence of ownership of) that number of shares of Hughes Class A Common Stock or Hughes Class B Common Stock, as applicable, which such holder has the right to receive pursuant to Section 2.1(a) or (b) above and (y) a check representing the amount of unpaid dividends and distributions, if any, which such holder has the right to receive pursuant to the provisions of this Article 2, and the amount of cash payable to such holder in lieu of fractional shares pursuant to Section 2.3, in each case after giving effect to any required withholding tax pursuant to Section 2.4(c) below, and the shares represented by the Certificate so surrendered shall forthwith be cancelled. No interest will be paid or accrued on cash in lieu of fractional shares, unpaid dividends and distributions, if any, payable to holders of EchoStar Shares. In the event of a transfer of ownership of EchoStar Shares which is not registered on the transfer records of EchoStar, a certificate representing (or other evidence of ownership of) the proper number of shares of Hughes Class A Common Stock or Hughes Class B Common Stock, as applicable, together with a check for the cash to be paid in lieu of unpaid dividends and distributions, if any, and in lieu of fractional shares, in each case without interest, may be issued to such transferee if the Certificate formerly representing such EchoStar Shares held by such transferee is presented to the Exchange Agent, accompanied by all documents required to evidence and effect such transfer and to evidence that any applicable stock transfer taxes have been paid. Until surrendered as contemplated by this Section 2.2, each Certificate shall be deemed at any time after the Merger Effective Time to represent that number of whole shares of Hughes Class A Common Stock or Hughes Class B Common Stock into which the shares of EchoStar Class A Common Stock or EchoStar Class B Common Stock formerly represented by such Certificates shall have been converted in the Merger, together with the right to receive any unpaid dividends and distributions and cash in lieu of fractional shares. At the option of Hughes, shares of Hughes Class A Common Stock and Hughes Class B Common Stock to be issued in the Merger need not be certificated, but may be evidenced on the books and records of Hughes or its transfer agent, but Hughes' stockholders will be given the opportunity to receive certificates upon request in accordance with Applicable Law.

(c) Distributions With Respect to Unexchanged Shares. Notwithstanding any other provisions of this Agreement, no dividends or other distributions declared or made after the Merger Effective Time with respect to shares of Hughes Class A Common Stock or Hughes Class B Common Stock having a record date after the Merger Effective Time shall be paid to the holder of any unsurrendered Certificate, until the holder shall surrender such Certificate as provided in this Section 2.2. Subject to the effect of Applicable Law, following surrender of any such Certificate, there shall be paid to the holder of the certificates representing (or other evidence of ownership of) shares of Hughes Class A Common Stock or Hughes Class B Common Stock, as applicable, issued in exchange therefor, without interest, (i) promptly following such surrender, the amount of dividends or other distributions with a record date after the Merger Effective Time theretofore payable with respect to such shares of Hughes Common Stock and not paid, less the amount of any withholding taxes which may be required thereon pursuant to

Section 2.4(c) below, and (ii) at the appropriate payment date subsequent to surrender, the amount of dividends or other distributions with a record date after the Merger Effective Time but prior to surrender and a payment date subsequent to surrender payable with respect to such shares of Hughes Common Stock, less the amount of any withholding taxes which may be required thereon.

(d) No Further Ownership Rights in EchoStar Shares. All shares of Hughes Class A Common Stock and Hughes Class B Common Stock issued upon surrender of Certificates in accordance with the terms hereof (including any cash paid pursuant to this Article 2) shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of EchoStar Class A Common Stock or EchoStar Class B Common Stock represented thereby, and from and after the Merger Effective Time there shall be no further registration of transfers of shares of EchoStar Class A Common Stock or EchoStar Class B Common Stock on the stock transfer books of EchoStar. If, after the Merger Effective Time, Certificates are presented to the Surviving Corporation for any reason, they shall be cancelled and exchanged as provided in this Section 2.2.

(e) Fees and Expenses of Exchange Agent. The Surviving Corporation shall pay all fees and expenses of the Exchange Agent.

Section 2.3. No Fractional Share Certificates. No fractional shares of Hughes Class A Common Stock or Hughes Class B Common Stock shall be issued in the Merger, no dividend or distribution with respect to Hughes Class A Common Stock or Class B Common Stock shall be payable on or with respect to any such fractional share interest, and such fractional share interest shall not entitle the owner thereof to any rights as a stockholder of Hughes. In lieu thereof, the Surviving Corporation shall pay to the Exchange Agent promptly after the Merger Effective Time cash sufficient as to allow the Exchange Agent to pay each owner of such fractional share interest an amount in cash equal to the fraction of a share of Hughes Class A Common Stock or Hughes Class B Common Stock, as applicable, to which such owner would have been otherwise entitled multiplied by the closing price of a share of Hughes Class A Common Stock, as reported on the New York Stock Exchange, Inc. ("NYSE") composite transactions reporting system as reported in the New York City edition of the Wall Street Journal, or if not reported therein, another authoritative source, for the trading day immediately following the day on which the Merger Effective Time occurs, without interest and net of any required withholding, subject to and in accordance with the terms of this Agreement. For purposes of determining whether a Person holds a fractional share of Hughes Class A Common Stock or Hughes Class B Common Stock, all shares of Hughes Class A Common Stock that a holder of shares of EchoStar Class A Common Stock would otherwise be entitled to receive as a result of the Merger shall be aggregated and all shares of Hughes Class B Common Stock that a holder of shares of EchoStar Class B Common Stock would otherwise be entitled to receive as a result of the Merger shall be aggregated.

Section 2.4. Exchange Fund Matters.

(a) No Liability. None of the parties hereto, the Exchange Agent or the Surviving Corporation shall be liable to any Person in respect of any shares of Hughes Class A Common Stock or Hughes Class B Common Stock (or dividends or distributions with respect thereto) or cash from the Exchange Fund delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. If any Certificates shall not have been surrendered prior to seven years after the Merger Effective Time (or immediately prior to such earlier date on

which any cash, any dividends or distributions with respect to whole shares of Hughes Class A Common Stock or Hughes Class B Common Stock in respect of such Certificate would otherwise escheat to or become the property of any Governmental Authority), any such cash, dividends or distributions in respect of such Certificate shall, to the extent permitted by Applicable Law, become the property of Hughes, free and clear of all claims or interest of any Person previously entitled thereto.

(b) Investment of Exchange Fund. The Exchange Agent shall invest any cash included in the Exchange Fund, as directed by the Surviving Corporation, on a daily basis. Any interest and other income resulting from such investments shall be paid to the Surviving Corporation upon termination of the Exchange Fund pursuant to Section 2.4(d).

(c) Withholding Rights. The Exchange Agent, on behalf of the Surviving Corporation, shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any holder of EchoStar Class A Common Stock or EchoStar Class B Common Stock such amounts as may be required to be deducted and withheld with respect to the making of such payment under the Code, or under any provision of state, local or foreign tax law. To the extent that amounts are so withheld and paid over to the appropriate taxing authority, such withheld amounts will be treated for all purposes of this Agreement as having been paid to the holder of EchoStar Class A Common Stock or EchoStar Class B Common Stock in respect of which such deduction and withholding was made.

(d) Lost, Stolen or Destroyed Certificates. In the event any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by the Surviving Corporation, the posting by such person of a bond in customary amount as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will issue in exchange for such lost, stolen or destroyed Certificate the shares of Hughes Class A Common Stock or Hughes Class B Common Stock, as the case may be, and any cash payable and any unpaid dividends or other distributions in respect thereof pursuant to Article 2 upon due surrender of and deliverable in respect of the EchoStar Shares represented by such Certificate pursuant to this Agreement.

(e) Termination of Exchange Fund. Any portion of the Exchange Fund which remains undistributed for six months after the Merger Effective Time shall be delivered to the Surviving Corporation, and any holders of fractional interests in Hughes Class A Common Stock or Hughes Class B Common Stock or any holders of EchoStar Class A Common Stock or EchoStar Class B Common Stock representing Hughes Class A Common Stock or Hughes Class B Common Stock who have not theretofore complied with the provisions of this Article 2 shall thereafter look only to the Surviving Corporation, as a general creditor thereof, for satisfaction of their claims for Hughes Class A Common Stock or Hughes Class B Common Stock, respectively, dividends and other distributions, if any, and any cash in lieu of fractional shares thereof, as the case may be.

#### Section 2.5. Treatment of EchoStar Stock Options.

(a) Prior to the Merger Effective Time, Hughes and EchoStar shall take all such actions as may be necessary to cause each unexpired and unexercised option, whether or not vested or exercisable, under stock option plans of EchoStar with respect to EchoStar Class A Common Stock and EchoStar Class B Common Stock, if any (each, an “Option”), to be

automatically converted at the Merger Effective Time into an option (a “Hughes Exchange Option”) to purchase, on the same terms and conditions as were applicable to each such Option immediately before the Merger Effective Time (except for any changes in vesting rights or permitted time of exercise pursuant to the terms of the stock option plans and stock option agreements in existence on the date of this Agreement which result from the occurrence of the Merger), the number of shares of Hughes Class A Common Stock or Hughes Class B Common Stock equal to (x) the number of shares of EchoStar Class A Common Stock or EchoStar Class B Common Stock, if any, as the case may be, subject to such Option multiplied by (y) the Exchange Ratio (rounded up to the nearest whole number) (that is, for each unexpired Option granted to an employee, the number of shares under the Hughes Exchange Option will be equal to the number of shares of EchoStar Class A Common Stock or EchoStar Class B Common Stock, if any, underlying such Option multiplied by the number of shares of Hughes Class A Common Stock or Hughes Class B Common Stock referenced in Section 2.1(a)), at a price per share (rounded down to the nearest cent) equal to (A) the exercise price for the EchoStar Class A Common Stock or EchoStar Class B Common Stock, if any, purchasable pursuant to such Option immediately prior to the Merger Effective Time divided by (y) the Exchange Ratio (that is, for each Option converted under this Section 2.5(a), the exercise price per share of the Hughes Exchange Option will equal the exercise price per share of the Option divided by the number of shares of Hughes Class A Common Stock or Hughes Class B Common Stock, as the case may be, referenced in Section 2.1(a)); provided, however, that in the case of any Option to which Section 421 of the Code applies by reason of its qualification under Section 422 of the Code, the conversion formula shall be adjusted, if necessary, to comply with Section 424(a) of the Code. In connection with the issuance of Hughes Exchange Options, Hughes shall (i) reserve for issuance the number of shares of Hughes Class A Common Stock and Hughes Class B Common Stock that will become subject to Hughes Exchange Options pursuant to this Section 2.5 and (ii) from and after the Merger Effective Time, upon exercise of Hughes Exchange Options, make available for issuance all shares of Hughes Class A Common Stock and Hughes Class B Common Stock covered thereby, subject to the terms and conditions applicable thereto.

(b) If and to the extent required by the terms of any applicable stock option plans or pursuant to the terms of any applicable Options or restricted stock units, EchoStar shall use commercially reasonable efforts to obtain the consent of each holder of outstanding Options or restricted stock units to the treatment of such Options and restricted stock units in accordance with this Section 2.5.

(c) Prior to the Merger Effective Time, the Board of Directors of Hughes, or an appropriate committee of non-employee directors thereof, shall adopt a resolution consistent with the interpretive guidance of the U.S. Securities and Exchange Commission (the “SEC”), so that the disposition of the Options and the acquisition of any shares of Hughes Class A Common Stock and Hughes Class B Common Stock, any Hughes Exchange Options or any other equity securities or derivative securities of Hughes pursuant to this Agreement by each officer or director of EchoStar who may become subject to Section 16 of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the “Exchange Act”), with respect to Hughes, shall be exempt for purposes of Section 16 of the Exchange Act.

(d) Within thirty (30) days after the Merger Effective Time, Hughes shall file a registration statement or registration statements on Form S-8 or another appropriate form with respect to the shares of Hughes Common Stock subject to the Hughes Exchange Options, and shall use its commercially reasonable efforts to maintain the effectiveness of such registration

statement(s) and maintain the current status of the prospectus(es) contained therein for so long as such Hughes Exchange Options remain outstanding. Hughes shall use commercially reasonable efforts to cause the shares of Hughes Class A Common Stock subject to such Hughes Exchange Options to be approved for listing on the NYSE or approved for quotation on the Nasdaq Stock Market ("Nasdaq") within thirty (30) days after the Merger Effective Time.

### ARTICLE 3

#### REPRESENTATIONS AND WARRANTIES OF ECHOSTAR

In order to induce Hughes to enter into this Agreement, EchoStar hereby represents and warrants to Hughes as follows, except as specifically described in EchoStar's annual report on Form 10-K for the fiscal year ended December 31, 2000 (the "EchoStar 10-K"), EchoStar's quarterly report on Form 10-Q for the fiscal quarter ended September 30, 2001 (the "EchoStar 10-Q") and all other reports, filings, registration statements and other documents (collectively with the EchoStar 10-K and EchoStar 10-Q, the "EchoStar SEC Documents") filed with the SEC after September 30, 2001 and prior to the date hereof (as such documents have been amended since the time of their filing and prior to the date hereof), all of which are of public record.

Section 3.1. Organization and Standing. Each of EchoStar and EchoStar's Significant Subsidiaries (as defined below) is a corporation validly existing and is in good standing under the laws of the State of Nevada, with respect to EchoStar, and (to the extent such concepts or equivalent concepts are recognized in such jurisdictions) under the laws of its state or other jurisdiction of incorporation, with respect to EchoStar's Significant Subsidiaries, in each case with all corporate power to carry on its business as now conducted. Each of EchoStar and EchoStar's Subsidiaries is duly qualified to do business and is in good standing (to the extent such concepts or equivalent concepts are recognized in such jurisdictions) in each jurisdiction in which the nature of the business conducted by it or the property it owns, leases or operates makes such qualification necessary, except where the failure to be so qualified or in good standing in such jurisdiction could not reasonably be expected to have a EchoStar Material Adverse Effect or have a material adverse impact on its ability to consummate the transactions contemplated by the EchoStar Transaction Agreements (as defined below). For the purposes of this Agreement, a "EchoStar Material Adverse Effect" means an event, change, circumstance or effect that has had or is reasonably likely to have a material adverse effect on the business, operations, assets, liabilities or financial condition of EchoStar and its Subsidiaries, taken as a whole, other than events, changes, circumstances or effects that arise out of or result from (x) economic factors affecting the economy or financial markets as a whole or generally affecting the direct broadcast satellite industry (other than those that materially disproportionately affect EchoStar and its Subsidiaries taken as a whole) and (y) the announcement of the execution of this Agreement or the other agreements contemplated hereby or the compliance by the parties with their respective obligations hereunder and thereunder (including any cancellations of or delays in customer orders, any reduction in sales, any disruption in supplier, distributor, partner or similar relationships or any loss of employees).

Section 3.2. Subsidiaries. Section 3.2 of the disclosure schedule delivered by EchoStar to Hughes and dated as of the date hereof (the "EchoStar Disclosure Schedule") sets forth a list of all of the Subsidiaries (as defined below) that are Significant Subsidiaries (as defined below), of EchoStar. Each of the outstanding shares of capital stock of each of

EchoStar's Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, and is owned, directly or indirectly, by EchoStar free and clear of all Encumbrances (as defined below) and has not been issued in violation of any preemptive or similar rights. Other than as set forth in Section 3.2 of the EchoStar Disclosure Schedule, there are no outstanding subscriptions, options, warrants, puts, calls, agreements, understandings, claims or other commitments or rights of any type relating to the issuance, sale, transfer or voting of any securities of any Significant Subsidiary of EchoStar, nor are there outstanding any securities which are convertible into or exchangeable for any shares of capital stock of any Significant Subsidiary of EchoStar; and no Significant Subsidiary of EchoStar has any obligation of any kind to issue any additional securities or to pay for securities of EchoStar or any Significant Subsidiary of EchoStar or any predecessor of any of the foregoing.

For the purposes of this Agreement, (x) the term "Subsidiary", with respect to a Person, means any corporation, limited liability company, partnership, trust or unincorporated organization of which securities or interests having by the terms thereof ordinary voting power to elect at least a majority of the board of directors or others performing similar functions with respect to such corporation, limited liability company, partnership, trust or unincorporated organization are directly or indirectly owned or controlled by such Person or by any one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries, and (y) the term "Significant Subsidiary" means a Subsidiary of a Person that would constitute a "significant subsidiary" within the meaning of Rule 1-02 of Regulation S-X of the Exchange Act, if such Rule were applicable to such Person.

Section 3.3. Corporate Power and Authority. EchoStar has (or will have prior to execution thereof) all requisite corporate power and authority to enter into the EchoStar Transaction Agreements (as defined below) and to consummate the transactions contemplated thereby. The execution and delivery of the EchoStar Transaction Agreements by EchoStar and the consummation of the transactions contemplated thereby to be effected by EchoStar have been (or will be prior to execution and delivery thereof) duly authorized by all necessary corporate action on the part of EchoStar. Each of the EchoStar Transaction Agreements has been (or will be) duly executed and delivered by EchoStar and, assuming the due authorization, execution and delivery by the other parties thereto, constitutes (or will constitute when executed) the legal, valid and binding obligations of EchoStar, enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, similar laws of debtor relief and general principles of equity.

For the purposes of this Agreement, "EchoStar Transaction Agreements" means this Agreement, the Implementation Agreement, the Merger Commitment Letter, the Merger Financing Agreement, the PanAmSat Financing Agreement, the PanAmSat Stock Purchase Agreement, the Registration Rights Letter Agreement (as defined in the Implementation Agreement), the EchoStar Controlling Stockholder Registration Rights Agreement (as defined in the Implementation Agreement), the Supplemental Agreement and the Pledge Agreement and all other agreements contemplated hereby or thereby to which EchoStar is (or will be) a party.

#### Section 3.4. Capitalization of EchoStar.

(a) As of the date of this Agreement, EchoStar's authorized capital stock consists of (i) 1,600,000,000 shares of common stock, par value \$0.01 per share, of which (x) 800,000,000 shares have been designated EchoStar Class A Common Stock, (y) 400,000,000 shares have been designated EchoStar Class B Common Stock and (z) 400,000,000 shares have

been designated EchoStar Class C common stock, par value \$0.01 per share (the "EchoStar Class C Common Stock") and (ii) 20,000,000 shares of preferred stock, par value \$0.01 per share, of which (x) 1,616,681 shares have been designated Series A Cumulative Preferred Stock, par value \$0.01 per share ("EchoStar Series A Preferred Stock"), (y) 900,000 shares have been designated Series B Senior Redeemable Exchangeable Preferred Stock, par value \$0.01 per share ("EchoStar Series B Preferred Stock") and (z) 2,300,000 shares have been designated Series C Cumulative Convertible Preferred Stock, par value \$0.01 per share ("EchoStar Series C Preferred Stock"). As of October 19, 2001 (i) 240,770,601 shares of EchoStar Class A Common Stock (excluding shares held by EchoStar as treasury shares) were issued and outstanding, (ii) 238,435,208 shares of EchoStar Class B Common Stock (excluding shares held by EchoStar as treasury shares) were issued and outstanding, (iii) no shares of EchoStar Class C Common Stock were issued and outstanding, (iv) no shares of EchoStar Class A Common Stock or EchoStar Class B Common Stock, respectively, were held by EchoStar as treasury shares and (v) no shares of EchoStar Series A Preferred Stock, EchoStar Series B Preferred Stock or EchoStar Series C Preferred Stock were issued and outstanding. Prior to the Merger Effective Time, EchoStar will file a certificate with the Secretary of State of Nevada withdrawing the designation of the Series A Preferred Stock, the Series B Preferred Stock and the Series C Preferred Stock.

(b) Each outstanding share of EchoStar capital stock is duly authorized and validly issued, fully paid and nonassessable, and has not been issued in violation of any preemptive or similar rights. Except as set forth in Section 3.4(b) of the EchoStar Disclosure Schedule, EchoStar has no authorized or outstanding bonds, debentures, notes or other obligations or securities, the holders of which have the right to vote with the stockholders of EchoStar on any matter.

(c) Other than as contemplated by the EchoStar Transaction Agreements or as set forth in Section 3.4(c) of the EchoStar Disclosure Schedule, there are no outstanding subscriptions, options, warrants, puts, calls, agreements, understandings, claims or other commitments or rights of any type relating to the issuance, sale or transfer of any securities of EchoStar, nor are there outstanding any securities which are convertible into or exchangeable for any shares of capital stock of EchoStar; and EchoStar has no obligation of any kind to issue any additional securities or to pay for securities of EchoStar or any predecessor or affiliate. The issuance and sale of all of the shares of EchoStar's capital stock described in this Section 3.4 have been in compliance with federal and state securities laws. Except as set forth in Section 3.4(c) of the EchoStar Disclosure Schedule, EchoStar has not agreed to register any of its securities under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the "Securities Act") or under any state securities law or granted registration rights with respect to any securities of EchoStar to any Person.

Section 3.5. Conflicts, Consents and Approvals. Except as set forth in Section 3.5 of the EchoStar Disclosure Schedule, the execution and delivery by EchoStar of the EchoStar Transaction Agreements and the consummation of the transactions contemplated thereby will not:

(a) violate any provision of the certificate of incorporation or by-laws (or equivalent organizational documents) of EchoStar or any of its Significant Subsidiaries;

(b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with the giving of notice, the passage of time or both, would constitute a default) under, require the consent of any party under, or entitle any party

(with the giving of notice, the passage of time or both) to terminate, accelerate, modify or call a default under, or result in the creation of any Encumbrance upon any of the properties or assets of EchoStar or any of its Significant Subsidiaries under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, intellectual property or other license, contract, undertaking, agreement, lease or other instrument or obligation to which EchoStar or any of its Significant Subsidiaries is a party;

(c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to EchoStar or any of its Subsidiaries; or

(d) except as contemplated by the EchoStar Transaction Agreements, require any consent or approval of or registration or filing by EchoStar or any of its affiliates with, any third party or any Governmental Authority, other than (i) FCC approvals, (ii) actions required by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder (the “HSR Act”), and any similar laws of foreign jurisdictions and (iii) registrations or other actions required under federal, state and foreign securities laws as are contemplated by this Agreement;

except in the case of (b), (c) and (d) for any of the foregoing that, in the aggregate, could not reasonably be expected to have a EchoStar Material Adverse Effect or have a material adverse impact on the ability of EchoStar to consummate the transactions contemplated by the EchoStar Transaction Agreements.

#### Section 3.6. EchoStar SEC Documents.

(a) EchoStar has timely filed with the SEC all required reports, filings, registration statements and other documents to be filed by them with the SEC since January 1, 2000.

(b) As of its filing date, or as amended or supplemented prior to the date hereof, each EchoStar SEC Document complied (and each EchoStar SEC Document filed after the date of this Agreement will comply) as to form in all material respects with the applicable requirements of the Exchange Act and the Securities Act.

(c) No EchoStar SEC Document, as of its filing date, contained any untrue statement of a material fact or omitted to state any material fact (and no EchoStar SEC Document filed after the date of this Agreement will contain any untrue statement of a material fact or omit to state any material fact) necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

#### Section 3.7. Financial Statements; Liabilities.

(a) The audited financial statements and unaudited interim financial statements of EchoStar included in the EchoStar 10-K and the EchoStar 10-Q (including any related notes or schedules) fairly present in all material respects (and the audited financial statements and unaudited interim financial statements of EchoStar included in EchoStar SEC Documents filed after the date of this Agreement will fairly present in all material respects), in accordance with GAAP (except as may be indicated in the notes thereto), the consolidated financial position of EchoStar and its consolidated Subsidiaries as of the dates thereof and its consolidated results of operations and changes in financial position for the respective periods then

ended (subject to normal year-end adjustments and lack of footnote disclosure in the case of any unaudited interim financial statements).

(b) EchoStar and its Subsidiaries have no liabilities or obligations of any kind whatsoever, whether known or unknown, asserted or unasserted, accrued, contingent, absolute, determined, determinable or otherwise, in each case, other than:

(i) liabilities or obligations disclosed or provided for in the balance sheet of EchoStar included in the EchoStar 10-K or 10-Q or disclosed in the notes thereto;

(ii) liabilities incurred since September 30, 2001 in the ordinary course of business;

(iii) liabilities or obligations under the EchoStar Transaction Agreements or incurred in connection with the transactions contemplated thereby;

(iv) obligations of EchoStar or its Subsidiaries under the agreements, contracts, leases, licenses to which it is a party that would be required by GAAP to be reflected on or reserved against on the balance sheet of EchoStar included in the EchoStar 10-Q and which are so reflected or reserved against thereon;

(v) as set forth in Section 3.7 of the EchoStar Disclosure Schedule;  
and

(vi) other liabilities or obligations which, in the aggregate, could not reasonably be expected to have a EchoStar Material Adverse Effect, or have a material adverse impact on the ability of EchoStar to consummate the transactions contemplated by the EchoStar Transaction Agreements.

Section 3.8. Absence of Certain Changes. Except as set forth in Section 3.8 of the EchoStar Disclosure Schedule and except as contemplated by the EchoStar Transaction Agreements, since September 30, 2001, there has been no (i) EchoStar Material Adverse Effect or (ii) development that has had or could reasonably be expected to have a material adverse impact on the ability of EchoStar to consummate the transactions contemplated by the EchoStar Transaction Agreements.

Section 3.9. Compliance with Law. Except as set forth in Section 3.9 of the EchoStar Disclosure Schedule and except for the Environmental and Safety Requirements (as defined below) which are addressed separately in Section 3.12 below, EchoStar and its Significant Subsidiaries are in compliance with, and at all times since January 1, 1998 have been in compliance with, all applicable laws, statutes, orders, rules, regulations, policies or guidelines promulgated, or judgments, decisions or orders entered by any Governmental Authority (collectively, "Applicable Law") relating to them or their businesses or properties, except where the failure to be in compliance therewith could not, in the aggregate, reasonably be expected to have a EchoStar Material Adverse Effect or have a material adverse impact on the ability of EchoStar to consummate the transactions contemplated by the EchoStar Transaction Agreements.

Section 3.10. Litigation. Except as set forth in Section 3.10 of the EchoStar Disclosure Schedule, there is no suit, claim, action, proceeding or, to its knowledge, investigation

("Action") pending or, to the knowledge of EchoStar, threatened against EchoStar or any of its Subsidiaries or its or their properties which could reasonably be expected to (a) have a EchoStar Material Adverse Effect or (b) have a material adverse impact on the ability of EchoStar to consummate the transactions contemplated by the EchoStar Transaction Agreements; provided, that with respect to this Section 3.10(b), the foregoing representation is made as of the date of this Agreement.

Section 3.11. Taxes. Each of EchoStar and its Subsidiaries has duly filed (or there have been filed on their behalf) all federal and material state, local and foreign income, franchise, excise, real and personal property and other tax returns and reports (including, but not limited to, those filed on a consolidated, combined or unitary basis) required to have been filed by it prior to the date hereof (taking into account extensions). All of the foregoing returns and reports are true and correct in all material respects, and EchoStar and its Subsidiaries have paid, or adequately reserved for, all taxes required to be paid in respect of all periods covered by such returns and reports. For the purposes of this Agreement, the term "tax" shall include all federal, state, local and foreign taxes, including interest and penalties thereon.

Section 3.12. Environmental and Safety Matters. Except as set forth in Section 3.12 of the EchoStar Disclosure Schedule, and except for any facts, conditions or circumstances that, in the aggregate, could not reasonably be expected to have a EchoStar Material Adverse Effect: (i) EchoStar and its Subsidiaries are and have been in compliance with all applicable Environmental and Safety Requirements; (ii) no property currently or, to the knowledge of EchoStar, formerly owned or operated by EchoStar or any Subsidiary has been contaminated with any substance that could reasonably be expected to require investigation or remediation pursuant to any Environmental and Safety Requirements; (iii) neither EchoStar nor any of its Subsidiaries is subject to any liability for any waste disposal or contamination on any third party property; (iv) neither EchoStar nor any of its Subsidiaries has received any notice, demand, letter, claim or request for information indicating that it may be in violation of or subject to liability with respect to any Environmental and Safety Requirements; (v) neither EchoStar nor any Subsidiary is subject to any outstanding order, decree, injunction or other arrangement with any Governmental Authority or any indemnity or other agreement with any other party relating to any Environmental and Safety Requirements and for which EchoStar or the Subsidiary retains any liability or obligation; (vi) to the knowledge of EchoStar there are no other circumstances or conditions involving EchoStar or any Subsidiary that could reasonably be expected to result in any claims, liability, investigations or costs by or for EchoStar or any Subsidiary of EchoStar in connection with any Environmental and Safety Requirements; and (vii) EchoStar has made available to EchoStar copies of all material environmental reports, studies, assessments and sampling data relating to EchoStar and its Subsidiaries or that relates to the current EchoStar business or for which indemnification does not exist and which are in the possession, custody or control of EchoStar. For the purposes of this Agreement, the term "Environmental and Safety Requirements" means all applicable federal, state, local and foreign statutes, regulations, ordinances and other provisions having the force or effect of law, all judicial and administrative orders and determinations and all common law in each case concerning public health and safety, worker health and safety, and pollution or protection of the environment (including all those relating to the presence, use, production, generation, handling, transportation, treatment, storage, disposal, distribution, labeling, testing, processing, discharge, Release or threatened Release (whether onsite or offsite), control, or cleanup of any hazardous materials, substances or wastes, chemical substances or mixtures, pesticides, pollutants, contaminants, toxic chemicals, petroleum products or byproducts, asbestos, polychlorinated biphenyls, noise or radiation). For the purposes

of this Agreement, the term “Release” has the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or similar Environmental and Safety Requirements.

Section 3.13. Employee Benefit Plans. All benefit and compensation plans, contracts, policies or arrangements covering current or former United States employees of EchoStar and its Subsidiaries and current or former directors of EchoStar, including “employee benefit plans” within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and deferred compensation, stock option, stock purchase, stock appreciation rights, stock based, incentive and bonus plans (the “EchoStar Plans”), are listed in Section 3.13 of the EchoStar Disclosure Schedule. Except as set forth in Section 3.13 of the EchoStar Disclosure Schedule, all EchoStar Plans are in compliance with, and have been administered and operated in accordance with, the terms of such EchoStar Plans and Applicable Law, except for any failure to so comply, operate or administer the EchoStar Plans that could not reasonably be expected to have a EchoStar Material Adverse Effect. With respect to each EchoStar Plan, a complete and correct copy of the most recent plan document or agreement, all related trust and funding documents, and all amendments thereto; the most recent summary plan description, and all related summaries of material modifications; and all actuarial and financial reports for the last three plan years, where applicable, have been provided or made available to Hughes. The Internal Revenue Service has issued a determination letter to the effect that each such EchoStar Plan which is intended to be qualified within the meaning of Section 401(a) or 501(c)(9) of the Code is so qualified. Neither EchoStar nor any of its Subsidiaries has engaged in a transaction with respect to any EchoStar Plan that, assuming the taxable period of such transaction expired as of the date hereof, could subject EchoStar or any Subsidiary to a tax or penalty imposed by either Section 4975 of the Code or Section 502(i) of ERISA, except for any tax or penalty which could not reasonably be expected to have an EchoStar Material Adverse Effect. No liability under Subtitle C or D of Title IV of ERISA has been or is expected to be incurred by EchoStar or any of its Subsidiaries with respect to any ongoing, frozen or terminated “single-employer plan”, within the meaning of Section 4001(a)(15) of ERISA, currently or formerly maintained by any of them, or the single-employer plan of any entity which is considered one employer with EchoStar under Section 4001 of ERISA or Section 414 of the Code (a “EchoStar ERISA Affiliate”), except for any liability that could not reasonably be expected to have a EchoStar Material Adverse Effect. EchoStar and the Subsidiaries have not incurred and do not expect to incur any withdrawal liability with respect to a multiemployer plan under Subtitle E of Title IV of ERISA (regardless of whether based on contributions of a EchoStar ERISA Affiliate), except for any liability that could not reasonably be expected to have a EchoStar Material Adverse Effect. No event which constitutes a “reportable event” as defined in Section 4043 of ERISA has occurred with respect to any EchoStar Plan subject to Title IV of ERISA which presents a material risk of the termination of any such EchoStar Plan and could reasonably be expected to result in a EchoStar Material Adverse Effect. Except as set forth in Section 3.13 of the EchoStar Disclosure Schedule, no audit, claim, action or litigation has been made, commenced or, to the knowledge of EchoStar, threatened with respect to any EchoStar Plan that, if adversely determined, could reasonably be expected to have a EchoStar Material Adverse Effect. Neither EchoStar nor any of its Subsidiaries has any obligations for continuing coverage for retiree health and life benefits (other than as required under Part 6 of Title I of ERISA or other similar obligations under Applicable Law) under any EchoStar Plan, except as listed in Section 3.13 of the EchoStar Disclosure Schedule. EchoStar or the Subsidiaries may amend or terminate any such retiree plan at any time without incurring any liability thereunder except for any liability which could not reasonably be expected to have a EchoStar Material

Adverse Effect. Except as set forth in Section 3.13 of the EchoStar Disclosure Schedule, there has been no amendment to, announcement by EchoStar or any of its Subsidiaries relating to, or change in employee participation or coverage under, any EchoStar Plan which would increase materially the expense of maintaining such plan above the level of the expense incurred therefor for the most recent fiscal year. Except as set forth in Section 3.13 of the EchoStar Disclosure Schedule, neither the execution of this Agreement, shareholder approval of this Agreement nor the consummation of the transactions contemplated hereby will (w) entitle any employees of EchoStar or any of the Subsidiaries to severance pay or any increase in severance pay upon any termination of employment after the date hereof, (x) accelerate the time of payment or vesting or trigger any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or trigger any other material obligation pursuant to the terms of, any of the EchoStar Plans, (y) limit or restrict the right of EchoStar or, after the consummation of the transactions contemplated hereby, Hughes to merge, amend or terminate any of the EchoStar Plans, or (z) cause EchoStar or any of its Subsidiaries or, after the consummation of the transactions contemplated hereby, Hughes to record additional compensation expense on its income statement with respect to any outstanding stock option or other equity-based award. EchoStar does not have any labor unions and is not a party to any collective bargaining agreements, in each case within the United States.

#### Section 3.14. Intellectual Property.

(a) EchoStar and its Subsidiaries own or have a valid right to use and shall own or have a valid right to use as of the Closing Date, all EchoStar Intellectual Property, except where the failure to own or have a valid right to use could not reasonably be expected to have a EchoStar Material Adverse Effect. For the purposes of this Agreement, “Intellectual Property” means:

(i) all patents and patent applications, trademarks, service marks, trade names (whether registered or unregistered) and pending applications for registration of any of the foregoing, domain names, copyrights and registrations and applications therefor, mask works and any applications for registration thereof, trade secrets, inventions, know-how, confidential and other intellectual property and proprietary rights arising from or in respect of the foregoing; and

(ii) any and all computer programs, including any and all software implementations (whether in source code or object code), databases, including any and all data and collections of data, whether machine readable or otherwise, and any other work product used to design and develop any of the foregoing and all documentation relating to the foregoing.

For the purposes of this Agreement, “EchoStar Intellectual Property” means all Intellectual Property (x) owned by EchoStar or any of its Subsidiaries; or (y) used or held for use by EchoStar or any of its Subsidiaries in their business pursuant to a valid license agreement. Except as set forth in Section 3.14(a) of the EchoStar Disclosure Schedule, each material item of EchoStar Intellectual Property is owned or licensed by the respective businesses of EchoStar and its Subsidiaries to no less advantageous extent in all material respects as during the twelve (12) months prior to the date hereof. EchoStar and its Subsidiaries have taken commercially reasonable action to maintain and protect their rights in and to each material item of EchoStar Intellectual Property.

(b) Except as set forth in Section 3.14(b) of the EchoStar Disclosure Schedule, neither EchoStar nor any of its Subsidiaries has received any written claim or notice of infringement or misappropriation of, or conflict with, the Intellectual Property rights of others, other than such as could not reasonably be expected to have a EchoStar Material Adverse Effect. Except as set forth in Section 3.14(b) of the EchoStar Disclosure Schedule, neither EchoStar nor any of its Subsidiaries has provided any third party any written claim or notice that such third party has infringed upon, misappropriated, or otherwise come into conflict with, any EchoStar Intellectual Property. Except as set forth in Section 3.14(b) of the EchoStar Disclosure Schedule, EchoStar and its Subsidiaries possess all right, title, and interest in and to, or have a legal, valid, binding and enforceable right to use, each material item of Intellectual Property used by EchoStar or any of its Subsidiaries, free and clear of all Encumbrances.

(c) The EchoStar Intellectual Property is sufficient to conduct, in all material respects, the respective businesses of EchoStar and its Subsidiaries after the Merger Effective Time as such businesses were conducted immediately prior to the Merger Effective Time.

Section 3.15. Contracts. Except as set forth in Section 3.15 of the EchoStar Disclosure Schedule, each material lease, license, contract, agreement or obligation to which EchoStar or any of its Subsidiaries is a party or by which any of them or any of their properties may be bound is valid, binding and enforceable and in full force and effect, except where such failures to be valid, binding and enforceable and in full force and effect could not, in the aggregate, reasonably be expected to have a EchoStar Material Adverse Effect or have a material adverse impact on the ability of EchoStar to consummate the transactions contemplated by the EchoStar Transaction Agreements, and neither EchoStar nor any of its Subsidiaries is in breach of or default thereunder, and, to EchoStar's knowledge, no other party thereto is in breach of or default thereunder, except for those breaches and defaults that could not reasonably be expected to have a EchoStar Material Adverse Effect or have a material adverse impact on the ability of EchoStar to consummate the transactions contemplated by the EchoStar Transaction Agreements.

Section 3.16. Brokerage and Finder's and Other Fees; Opinion of Financial Advisor.

(a) Except for EchoStar's obligations to UBS Warburg LLC and Deutsche Banc Alex. Brown Inc., neither EchoStar nor any of its affiliates, stockholders, directors, officers or employees has incurred or will incur on behalf of EchoStar or any affiliate of EchoStar, any brokerage, finder's or similar fee in connection with the transactions contemplated by the EchoStar Transaction Agreements.

(b) The Board of Directors of EchoStar has received the opinion of Deutsche Bank Alex. Brown Inc. to the effect that, as of the date of this Agreement, the Class A Exchange Ratio is fair, from a financial point of view, to the holders of EchoStar Class A Common Stock. EchoStar will provide a copy thereof to Hughes, for information purposes only, and Hughes acknowledges that it has no right to rely on such opinion.

Section 3.17. Board and Stockholder Approval. The Board of Directors of EchoStar, at a meeting duly called and held, has duly determined that the EchoStar Transaction Agreements and the transactions contemplated thereby are advisable, fair to and in the best interests of EchoStar and its stockholders and has authorized the EchoStar Transaction Agreements to be executed, delivered and performed. Immediately following the execution of this Agreement and such determinations, the Controlling Stockholder shall have executed and

delivered to EchoStar, in accordance with the provisions of the NRS, a written consent approving and adopting this Agreement and the other EchoStar Transaction Agreements and approving the transactions contemplated hereby and thereby. No other vote or consent of the holders of any class or series of EchoStar capital stock is necessary to approve and adopt this Agreement and the transactions contemplated by the EchoStar Transaction Agreements.

Section 3.18. Takeover Laws. Prior to the date hereof, the Board of Directors of EchoStar has taken all action necessary to exempt (a) the execution of the EchoStar Transaction Agreements, (b) the Merger and (c) the transactions contemplated thereby under or make the foregoing actions not subject to (i) any takeover law or law that purports to limit or restrict business combinations or the ability to acquire or vote shares and (ii) any stockholder rights plan or any similar anti-takeover plan or device.

Section 3.19. Restrictive Agreements. Except as set forth in Section 3.19 of the EchoStar Disclosure Schedule, none of EchoStar, EchoStar's Subsidiaries or any employee, officer, director or consultant of either EchoStar or EchoStar's Subsidiaries is party to or bound by any agreement, contract, policy, license, Permit, document, instrument, arrangement or commitment that materially limits, or would materially limit after the Merger Effective Time, the ability of either EchoStar or EchoStar's Subsidiaries or, to EchoStar's knowledge, Hughes or its Subsidiaries, to compete in any line of business or with any Person or in any geographic area.

Section 3.20. Permits. For the purposes of this Agreement, the "EchoStar Permits" shall mean all permits, approvals, authorizations, certificates, consents, franchises, licenses, concessions and rights ("Permits") issued or authorized by any Governmental Authority (as amended or modified) to, or held by, EchoStar or any of its Subsidiaries (together, the "EchoStar Permit Entities") including (a) all Permits issued by the FCC to any EchoStar Permit Entity ("EchoStar FCC Licenses") and (b) all Permits issued to any EchoStar Permit Entity by a Governmental Authority (other than the FCC) authorizing such entity to provide broadcasting or other communications services (including the provision of direct-to-home video programming). Set forth on Section 3.20 of the EchoStar Disclosure Schedule is a true and complete list of (a) all EchoStar Permits, (b) all pending applications for Permits that would be EchoStar Permits, if issued or granted and (c) all pending applications by any EchoStar Permit Entity for modification, extension or renewal of EchoStar Permits, except that Section 3.20 of the EchoStar Disclosure Schedule need not list such EchoStar Permits, applications therefor or applications in respect thereof that are immaterial to the assets or business of EchoStar and its Subsidiaries taken as a whole. The EchoStar Permits are all of the Permits required to be issued to or held by the EchoStar Permit Entities in order to allow such entities to conduct their respective businesses as currently conducted and the EchoStar Permits are in full force and effect, except where the failure to possess any such Permit or the failure of any such Permit to be in full force and effect could not reasonably be expected to have a EchoStar Material Adverse Effect. Without limiting the general provisions of Section 3.9, except as set forth on Section 3.20 of the EchoStar Disclosure Schedule, each of the EchoStar Permit Entities is in compliance with (i) its obligations under each of the EchoStar Permits owned, held or possessed by it, and (ii) the rules and regulations of the Governmental Authority issuing such EchoStar Permit, except in each case where the failure to so comply could not reasonably be expected to have a EchoStar Material Adverse Effect. Except as set forth on Section 3.20 of the EchoStar Disclosure Schedule and except for proceedings affecting the satellite industry in general, to EchoStar's knowledge, there is not pending or threatened before the Federal Communications Commission or any successor agency ("FCC") or any other Governmental Authority any proceeding, notice of violation, order of forfeiture or

complaint, or investigation against any EchoStar Permit Entity relating to any of the EchoStar Permits that could reasonably be expected to have a EchoStar Material Adverse Effect. Without limiting the general provisions of Section 3.5, Section 3.5(d) of the EchoStar Disclosure Schedule lists all of the consents or approvals of, or registrations or filings by any EchoStar Permit Entity with, any Governmental Authority necessary for EchoStar to transfer the EchoStar Permits by consummating the transactions contemplated hereby.

Section 3.21. Amendment to By-Laws. EchoStar has amended its By-laws to provide that the stockholders of EchoStar may act by written consent of the holders of that number of shares required to take such action in order to be effective and such By-laws, as so amended, remain in full force and effect.

## ARTICLE 4

### REPRESENTATIONS AND WARRANTIES OF HUGHES

In order to induce EchoStar to enter into this Agreement, Hughes hereby represents and warrants to EchoStar as follows, except as specifically described in Hughes' annual report on Form 10-K for the fiscal year ended December 31, 2000 (the "Hughes 10-K"), Hughes' quarterly report on Form 10-Q for the fiscal quarter ended September 30, 2001 (the "Hughes 10-Q") and all other reports, filings, registration statements and other documents (collectively with the Hughes 10-K and Hughes 10-Q, the "Hughes SEC Documents") filed by Hughes with the SEC after September 30, 2001 and prior to the date hereof (as such documents have been amended since the time of their filing and prior to the date hereof), all of which are of public record.

Section 4.1. Organization and Standing. Each of Hughes and Hughes' Significant Subsidiaries is a corporation validly existing and in good standing under the laws of the State of Delaware, with respect to Hughes, and (to the extent such concepts or equivalent concepts are recognized in such jurisdictions) under the laws of its state or other jurisdiction of incorporation, with respect to Hughes' Significant Subsidiaries, in each case, with all corporate (and other) power to carry on its business as now conducted. Each of Hughes and Hughes' Subsidiaries is duly qualified to do business and is in good standing (to the extent that such concepts or equivalent concepts are recognized in such jurisdictions) in each jurisdiction in which the nature of the business conducted by it or the property it owns, leases or operates makes such qualification necessary, except where the failure to be so qualified or in good standing in such jurisdiction could not reasonably be expected to have a Hughes Material Adverse Effect (as defined below) or have a material adverse impact on its ability to consummate the transactions contemplated by the Hughes Transaction Agreements (as defined below). For the purposes of this Agreement, a "Hughes Material Adverse Effect" means an event, change, circumstance or effect that has had or is reasonably likely to have a material adverse effect on the business, operations, assets, liabilities or financial condition of Hughes and its Subsidiaries taken as a whole, other than events, changes, circumstances or effects that arise out of or result from (x) economic factors affecting the economy or financial markets as a whole or generally affecting the direct broadcast satellite industry (other than those that materially disproportionately affect Hughes and its Subsidiaries taken as a whole), (y) the Hughes Recapitalization or the Spin-Off and (z) the announcement of the execution of the this Agreement and the agreements contemplated hereby or the compliance by the parties with their respective obligations hereunder and thereunder (including any cancellations of or delays in customer orders, any reduction in

sales, any disruption in supplier, distributor, partner or similar relationships or any loss of employees).

Section 4.2. Subsidiaries. Section 4.2 of the disclosure schedule delivered by Hughes to EchoStar and dated as of the date hereof (the "Hughes Disclosure Schedule") sets forth a list of all of the Significant Subsidiaries of Hughes. Each of the outstanding shares of capital stock of each of Hughes' Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, and is owned, directly or indirectly, by Hughes free and clear of all Encumbrances and has not been issued in violation of any preemptive or similar rights. Other than as set forth in Section 4.2 of the Hughes Disclosure Schedule, there are no outstanding subscriptions, options, warrants, puts, calls, agreements, understandings, claims or other commitments or rights of any type relating to the issuance, sale, transfer or voting of any securities of any Significant Subsidiary of Hughes, nor are there outstanding any securities which are convertible into or exchangeable for any shares of capital stock of any Significant Subsidiary of Hughes; and no Significant Subsidiary of Hughes has any obligation of any kind to issue any additional securities or to pay for securities of Hughes or any Significant Subsidiary of Hughes or any predecessor of any of the foregoing.

Section 4.3. Corporate Power and Authority. Hughes has (or will have prior to execution thereof) all requisite corporate power and authority to enter into the Hughes Transaction Agreements (as defined below) and to consummate the transactions contemplated thereby. The execution and delivery of each of the Hughes Transaction Agreements by Hughes and the consummation of the transactions contemplated thereby to be effected by Hughes have been (or will be prior to execution and delivery thereof) duly authorized by all necessary corporate action on the part of Hughes. Each of the Hughes Transaction Agreements has been (or will be) duly executed and delivered by Hughes and assuming the due authorization, execution and delivery by the other parties thereto, constitutes (or will constitute when executed) the legal, valid and binding obligation of Hughes, enforceable against Hughes in accordance with its terms, except as enforceability may be limited by bankruptcy, similar laws of debtor relief and general principles of equity. For the purposes of this Agreement, "Hughes Transaction Agreements" means this Agreement, the Implementation Agreement, the PanAmSat Stock Purchase Agreement, the Merger Financing Agreement, the Supplemental Agreement, the Pledge Agreement, the Stockholders Agreement, the GM Registration Rights Agreement (as defined in the Implementation Agreement), the GM/Hughes Separation Agreement, the GM/Hughes Tax Agreements, the GM/Hughes Intellectual Property Agreement, the Employee Matters Agreement, the GM/Hughes Special Employee Items Agreement, the Registration Rights Letter Agreement (as defined in the Implementation Agreement), the Pension Plans Registration Rights Agreement (as defined in the Implementation Agreement), the GM Registration Rights Agreement (as defined in the Implementation Agreement), the EchoStar Controlling Stockholder Registration Rights Agreement (as defined in the Implementation Agreement) and all other agreements contemplated thereby to which Hughes is (or will be) a party.

Section 4.4. Capitalization of Hughes.

(a) As of the date of this Agreement, Hughes' authorized capital stock consists of 1,000,000 shares of common stock, par value \$0.01 per share, and 10,000,000 shares of Series A Preferred Stock, of which 2,669,633 shares have been designated Series A Preferred Stock, par value \$0.10 per share ("Series A Preferred Stock"). As of the date hereof (i) 200 shares of common stock (excluding shares held by Hughes as treasury shares) were issued and

outstanding, (ii) 81,649,203 shares of common stock were held by Hughes as treasury shares and (iii) 2,669,633 shares of Series A Preferred Stock were issued and outstanding.

(b) Each outstanding share of Hughes capital stock is duly authorized and validly issued, fully paid and nonassessable, and has not been issued in violation of any preemptive or similar rights. As of the date of this Agreement, each outstanding share of Hughes capital stock is owned by GM free and clear of all Encumbrances. Hughes has no authorized or outstanding bonds, debentures, notes or other obligations or securities, the holders of which have the right to vote with the stockholders of Hughes on any matter.

(c) Other than as contemplated by the GM Transaction Agreements or the Hughes Transaction Agreements, or as set forth in Section 4.4(c) of the Hughes Disclosure Schedule, there are no outstanding subscriptions, options, warrants, puts, calls, agreements, understandings, claims or other commitments or rights of any type relating to the issuance, sale or transfer of any securities of Hughes, nor are there outstanding any securities which are convertible into or exchangeable for any shares of capital stock of Hughes; and Hughes has no obligation of any kind to issue any additional securities or to pay for securities of Hughes or any predecessor or affiliate. The issuance and sale of all of the shares of capital stock described in this Section 4.4 have been in compliance with federal and state securities laws. Section 4.4(c) of the Hughes Disclosure Schedule accurately sets forth, as of September 30, 2001, the number of shares of GM Class H Common Stock issuable upon exercise of options to purchase shares of GM Class H Common Stock, and the exercise prices with respect thereto, along with a list of the options to purchase shares of GM Class H Common Stock held by each corporate officer of Hughes and any of its Subsidiaries. Except as set forth in Section 4.4(c) of the Hughes Disclosure Schedule or as contemplated by the GM/Hughes Separation Agreement, Hughes has not agreed to register any securities under the Securities Act, or under any state securities law or granted registration rights with respect to any securities of Hughes to any Person.

Section 4.5. Conflicts, Consents and Approvals. Except as set forth in Section 4.5 of the Hughes Disclosure Schedule, the execution and delivery of the Hughes Transaction Agreements by Hughes and the GM Transaction Agreements (as defined in the Implementation Agreement) by GM and the consummation of the transactions contemplated thereby will not:

(a) violate any provision of the certificate of incorporation or by-laws (or equivalent organizational documents) of Hughes or any of its Significant Subsidiaries;

(b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with the giving of notice, the passage of time or both, would constitute a default) under, require the consent of any party under, or entitle any party (with the giving of notice, the passage of time or both) to terminate, accelerate, modify or call a default under, or result in the creation of any Encumbrance upon any of the properties or assets of Hughes or any of its Significant Subsidiaries under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, intellectual property or other license, contract, undertaking, agreement, lease or other instrument or obligation to which Hughes or any of its Significant Subsidiaries is a party;

(c) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Hughes or any of its Subsidiaries; or

(d) except as contemplated by the Hughes Transaction Agreements, require any consent or approval of, or registration or filing by Hughes or any of its affiliates with, any third party or Governmental Authority, other than (i) authorization for listing or quotation of the shares of Hughes Class A Common Stock to be issued in the Merger and Hughes Class C Common Stock to be outstanding immediately prior to the Merger Effective Time on the NYSE or Nasdaq, subject to official notice of issuance, (ii) actions required by the HSR Act and any similar laws of foreign jurisdictions and (iii) registrations or other actions required under federal, state and foreign securities laws as are contemplated by this Agreement;

except in the case of (b), (c) and (d) for any of the foregoing that, in the aggregate, could not reasonably be expected to have a Hughes Material Adverse Effect or have a material adverse impact on the ability of Hughes to consummate the transactions contemplated by the Hughes Transaction Agreements.

#### Section 4.6. Hughes SEC Documents.

(a) Hughes has timely filed with the SEC all required reports, filings, registration statements and other documents to be filed by them with the SEC since January 1, 2000.

(b) As of its filing date, or as amended or supplemented prior to the date hereof, each Hughes SEC Document complied (and each Hughes SEC Document filed after the date of this Agreement will comply) as to form in all material respects with the applicable requirements of the Exchange Act and the Securities Act.

(c) No Hughes SEC Document, as of its filing date, contained any untrue statement of a material fact or omitted to state any material fact (and no Hughes SEC Document filed after the date of this Agreement will contain any untrue statement of a material fact or omit to state any material fact) necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

#### Section 4.7. Financial Statements; Liabilities.

(a) The audited financial statements and unaudited interim financial statements of Hughes included in the Hughes 10-K and the Hughes 10-Q (including any related notes or schedules) fairly present in all material respects (and the audited financial statements and unaudited interim financial statements of Hughes included in Hughes SEC Documents filed after the date of this Agreement will fairly present in all material respects), in accordance with GAAP (except as may be indicated in the notes thereto), the consolidated financial position of Hughes and its consolidated Subsidiaries as of the dates thereof and its consolidated results of operations and changes in financial position for the respective periods then ended (subject to normal year-end adjustments and lack of footnote disclosure in the case of any unaudited interim financial statements).

(b) Hughes and its Subsidiaries have no liabilities or obligations of any kind whatsoever, whether known or unknown, asserted or unasserted, accrued, contingent, absolute, determined, determinable or otherwise, in each case, other than:

(i) liabilities or obligations disclosed or provided for in the balance sheet of Hughes included in the Hughes 10-K or 10-Q or disclosed in the notes thereto;

(ii) liabilities incurred since September 30, 2001 in the ordinary course of business;

(iii) liabilities or obligations under the Hughes Transaction Agreements or incurred in connection with the transactions contemplated thereby;

(iv) obligations of Hughes or its Subsidiaries under the agreements, contracts, leases, licenses to which it is a party that would be required by GAAP to be reflected on or reserved against on the balance sheet of Hughes included in the Hughes 10-Q and which are so reflected or reserved against thereon;

(v) as set forth in Section 4.7 of the Hughes Disclosure Schedule; and

(vi) other liabilities or obligations which, in the aggregate, could not reasonably be expected to have a Hughes Material Adverse Effect, or have a material adverse impact on the ability of Hughes to consummate the transactions contemplated by the Hughes Transaction Agreements.

Section 4.8. Absence of Certain Changes. Except as set forth in Section 4.8 of the Hughes Disclosure Schedule and except as contemplated by the Hughes Transaction Agreements, since September 30, 2001, there has been no (i) Hughes Material Adverse Effect or (ii) development that has had or could reasonably be expected to have a material adverse impact on the ability of Hughes to consummate the transactions contemplated by the Hughes Transaction Agreements.

Section 4.9. Compliance with Law. Except as set forth in Section 4.9 of the Hughes Disclosure Schedule, Hughes and its Significant Subsidiaries are in compliance with, and at all times since January 1, 1998 have been in compliance with, all Applicable Law relating to them or their businesses or properties, except where the failure to be in compliance therewith could not, in the aggregate, reasonably be expected to have a Hughes Material Adverse Effect or have a material adverse impact on the ability of Hughes to consummate the transactions contemplated by the Hughes Transaction Agreements.

Section 4.10. Litigation. Except as set forth in Section 4.10 of the Hughes Disclosure Schedule, there is no Action pending or, to the knowledge of Hughes, threatened against Hughes or any of its Subsidiaries or its or their properties which could reasonably be expected to (a) have a Hughes Material Adverse Effect or (b) have a material adverse impact on the ability of Hughes to consummate the transactions contemplated by the Hughes Transaction Agreements; provided, that with respect to Section 4.10(b), the foregoing representation is made as of the date of this Agreement.

Section 4.11. Taxes. Each of Hughes and its Subsidiaries have duly filed (or there have been filed on their behalf) all federal and material state, local and foreign income, franchise, excise, real and personal property and other tax returns and reports (including, but not limited to, those filed on a consolidated, combined or unitary basis) required to have been filed by it prior to the date hereof (taking into account extensions). All of the foregoing returns and reports, to the extent they relate to the income, assets or business of Hughes and its Subsidiaries, are true and correct in all material respects, and Hughes and its Subsidiaries have paid (or

payment has been made on its behalf), or adequately reserved for, all taxes required to be paid in respect of all periods covered by such returns and reports.

Section 4.12. Environmental and Safety Matters. Except as set forth in Section 4.12 of the Hughes Disclosure Schedule, and except for any facts, conditions or circumstances that, in the aggregate, could not reasonably be expected to have a Hughes Material Adverse Effect: (i) Hughes and its Subsidiaries are and have been in compliance with all applicable Environmental and Safety Requirements; (ii) no property currently or, to the knowledge of Hughes, formerly owned or operated by Hughes or any Subsidiary has been contaminated with any substance that could reasonably be expected to require investigation or remediation pursuant to any Environmental and Safety Requirements; (iii) neither Hughes nor any of its Subsidiaries is subject to any liability for any waste disposal or contamination on any third party property; (iv) neither Hughes nor any of its Subsidiaries has received any notice, demand, letter, claim or request for information indicating that it may be in violation of or subject to liability with respect to any Environmental and Safety Requirements; (v) neither Hughes nor any Subsidiary is subject to any outstanding order, decree, injunction or other arrangement with any Governmental Authority or any indemnity or other agreement with any other party relating to any Environmental and Safety Requirements and for which Hughes or the Subsidiary retains any liability or obligation; (vi) to the knowledge of Hughes there are no other circumstances or conditions involving Hughes or any Subsidiary that could reasonably be expected to result in any claims, liability, investigations or costs by or for Hughes or any Subsidiary of Hughes in connection with any Environmental and Safety Requirements; and (vii) Hughes has made available to EchoStar copies of all material environmental reports, studies, assessments and sampling data relating to Hughes and its Subsidiaries or that relates to the current Hughes business or for which indemnification does not exist and which are in the possession, custody or control of Hughes.

Section 4.13. Employee Benefit Plans. All benefit and compensation plans, contracts, policies or arrangements covering current or former United States employees of Hughes and its Subsidiaries and current or former directors of Hughes, including "employee benefit plans" within the meaning of Section 3(3) of ERISA, and deferred compensation, stock option, stock purchase, stock appreciation rights, stock based, incentive and bonus plans (the "Hughes Plans"), are listed in Section 4.13 of the Hughes Disclosure Schedule. Except as set forth in Section 4.13 of the Hughes Disclosure Schedule, no Hughes Plans cover, or provide benefits to, employees of GM or its Subsidiaries (other than Hughes). Except as set forth in Section 4.13 of the Hughes Disclosure Schedule, all Hughes Plans are in compliance with, and have been administered and operated in accordance with, the terms of such Hughes Plans and Applicable Law, except for any failure to so comply, operate or administer the Hughes Plans that could not reasonably be expected to have a Hughes Material Adverse Effect. With respect to each Hughes Plan, a complete and correct copy of the most recent plan document or agreement, all related trust and funding documents, and all amendments thereto; the most recent summary plan description, and all related summaries of material modifications; and all actuarial and financial reports for the last three plan years, where applicable, have been provided or made available to EchoStar. The Internal Revenue Service has issued a determination letter to the effect that each such Hughes Plan which is intended to be "qualified" within the meaning of Section 401(a) or 501(c)(9) of the Code is so qualified. Neither Hughes nor any of its Subsidiaries has engaged in a transaction with respect to any Hughes Plan that, assuming the taxable period of such transaction expired as of the date hereof, could subject Hughes or any Subsidiary to a tax or penalty imposed by either Section 4975 of the Code or Section 502(i) of

ERISA, except for any tax or penalty which could not reasonably be expected to have a Hughes Material Adverse Effect. No liability under Subtitle C or D of Title IV of ERISA has been or is expected to be incurred by Hughes or any of its Subsidiaries with respect to any ongoing, frozen or terminated “single-employer plan”, within the meaning of Section 4001(a)(15) of ERISA, currently or formerly maintained by any of them, or the single-employer plan of any entity which is considered one employer with Hughes under Section 4001 of ERISA or Section 414 of the Code (a “Hughes ERISA Affiliate”), except for any liability that could not reasonably be expected to have a Hughes Material Adverse Effect. Hughes and the Subsidiaries have not incurred and do not expect to incur any withdrawal liability with respect to a multiemployer plan under Subtitle E of Title IV of ERISA (regardless of whether based on contributions of a Hughes ERISA Affiliate), except for any liability that could not reasonably be expected to have a Hughes Material Adverse Effect. No event which constitutes a “reportable event” as defined in Section 4043 of ERISA has occurred with respect to any Hughes Plan subject to Title IV of ERISA which presents a material risk of the termination of any such Hughes Plan and could reasonably be expected to result in a Hughes Material Adverse Effect. Except as set forth in Section 4.13 of the Hughes Disclosure Schedule, no audit, claim, action or litigation has been made, commenced or, to the knowledge of Hughes, threatened with respect to any Hughes Plan that, if adversely determined, could reasonably be expected to have a Hughes Material Adverse Effect. Neither Hughes nor any of its Subsidiaries has any obligations for continuing coverage for retiree health and life benefits (other than as required under Part 6 of Title I of ERISA or other similar obligations under Applicable Law) under any Hughes Plan, except as listed in Section 4.13 of the Hughes Disclosure Schedule. Hughes or the Subsidiaries may amend or terminate any such retiree plan at any time without incurring any liability thereunder except for any liability which could not reasonably be expected to have a Hughes Material Adverse Effect. Except as set forth in Section 4.13 of the Hughes Disclosure Schedule, there has been no amendment to, announcement by Hughes or any of its Subsidiaries relating to, or change in employee participation or coverage under, any Hughes Plan which would increase materially the expense of maintaining such plan above the level of the expense incurred therefor for the most recent fiscal year. Except as set forth in Section 4.13 of the Hughes Disclosure Schedule, neither the execution of this Agreement, stockholder approval of this Agreement nor the consummation of the transactions contemplated hereby will (w) entitle any employees of Hughes or any of the Subsidiaries to severance pay or any increase in severance pay upon any termination of employment after the date hereof, (x) accelerate the time of payment or vesting or trigger any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or trigger any other material obligation pursuant to the terms of, any of the Hughes Plans, (y) limit or restrict the right of Hughes to merge, amend or terminate any of the Hughes Plans, or (z) cause Hughes or any of its Subsidiaries to record additional compensation expense on its income statement with respect to any outstanding stock option or other equity-based award. Hughes does not have any labor unions and is not a party to any collective bargaining agreements, in each case within the United States.

#### Section 4.14. Intellectual Property.

(a) Hughes and its Subsidiaries own or have a valid right to use and shall own or have a valid right to use as of the Closing Date, all Hughes Intellectual Property, except where the failure to own or have a valid right to use could not reasonably be expected to have a Hughes Material Adverse Effect. For the purposes of this Agreement, “Hughes Intellectual Property” means all Intellectual Property (i) owned by Hughes or any of its Subsidiaries or (ii) used or held for use by Hughes or any of its Subsidiaries in their business pursuant to a valid

license agreement. Except as set forth in Section 4.14(a) of the Hughes Disclosure Schedule, each material item of Hughes Intellectual Property is owned or licensed by the respective businesses of Hughes and its Subsidiaries to no less advantageous extent in all material respects as during the twelve (12) months prior to the date hereof. Hughes and its Subsidiaries have taken commercially reasonable action to maintain and protect their rights in and to each material item of Hughes Intellectual Property.

(b) Except as set forth in Section 4.14(b) of the Hughes Disclosure Schedule, neither Hughes nor any of its Subsidiaries has received any written claim or notice of infringement or misappropriation of, or conflict with, the Intellectual Property rights of others, other than such as could not reasonably be expected to have a Hughes Material Adverse Effect. Except as set forth in Section 4.14(b) of the Hughes Disclosure Schedule, none of GM, Hughes or any of Hughes' Subsidiaries has provided any third party any written claim or notice that such third party has infringed upon, misappropriated, or otherwise come into conflict with, any Hughes Intellectual Property. Except as set forth in Section 4.14(b) of the Hughes Disclosure Schedule, Hughes and its Subsidiaries possess all right, title, and interest in and to, or have a legal, valid, binding and enforceable right to use, each material item of Intellectual Property used by Hughes or any of its Subsidiaries, free and clear of all Encumbrances.

(c) The Hughes Intellectual Property is sufficient to conduct, in all material respects, the respective businesses of Hughes and its Subsidiaries after the Merger Effective Time as such businesses were conducted immediately prior to the Merger Effective Time.

Section 4.15. Contracts. Except as set forth in Section 4.15 of the Hughes Disclosure Schedule, each material lease, license, contract, agreement or obligation to which Hughes or any of its Subsidiaries is a party or by which any of them or any of their properties may be bound is valid, binding and enforceable and in full force and effect, except where such failures to be valid, binding and enforceable and in full force and effect could not, in the aggregate, reasonably be expected to have a Hughes Material Adverse Effect or have a material adverse impact on the ability of Hughes to consummate the transactions contemplated by the Hughes Transaction Agreements, and neither Hughes nor any of its Subsidiaries is in breach of or default thereunder, and, to Hughes' knowledge, no other party thereto is in breach of or default thereunder, except for those breaches and defaults that could not reasonably be expected to have a Hughes Material Adverse Effect or have a material adverse impact on the ability of Hughes to consummate the transactions contemplated by the Hughes Transaction Agreements.

Section 4.16. Brokerage and Finder's and Other Fees; Opinions of Financial Advisors.

(a) Except for obligations to Goldman, Sachs & Co. and Credit Suisse First Boston Corporation, neither Hughes nor any of its affiliates, stockholders, directors, officers or employees (in each case, other than GM) has incurred or will incur on behalf of Hughes or any affiliate of Hughes, any brokerage, finder's or similar fee in connection with the transactions contemplated by the Hughes Transaction Agreements. A copy of all agreements relating to any such fee payable by Hughes or any Subsidiary of Hughes to Goldman, Sachs & Co. and Credit Suisse First Boston Corporation have been (or upon request will be) delivered to EchoStar.

(b) Each of Goldman, Sachs & Co. and Credit Suisse First Boston Corporation has provided its written opinion, dated as of the date of this Agreement and addressed to the Board of Directors of GM and to the Board of Directors of Hughes, to the effect

that, as of such date and based on current market conditions, the Exchange Ratios in the Merger are fair, from a financial point of view, to the holders of Hughes Common Stock immediately prior to the Merger, including GM and the holders of GM \$1-2/3 Common Stock and GM Class H Common Stock, as applicable. GM and Hughes have heretofore provided a copy of such opinions to EchoStar, for information purposes only, and EchoStar acknowledges that it has no right to rely on such opinions.

Section 4.17. Board and Stockholder Approval. The Board of Directors of Hughes, at a meeting duly called and held, has duly determined that the Hughes Transaction Agreements and the transactions contemplated thereby are advisable, fair to and in the best interests of Hughes and its stockholders and has authorized the Hughes Transaction Agreements to be executed, delivered and performed. Immediately following the execution of this Agreement and such determinations, GM, in its capacity as sole stockholder of Hughes, shall have, at a meeting of the sole stockholder, adopted and approved this Agreement (and the execution, delivery and performance thereof) and the other Hughes Transaction Agreements and the transactions contemplated hereby and thereby. Other than the approvals of Hughes and GM as described in the immediately preceding sentence and the approval of the Hughes Transaction Agreements by GM, no other vote or consent of the holders of any class or series of Hughes capital stock is necessary to approve and adopt this Agreement and the transactions contemplated by the Hughes Transaction Agreements (it being expressly understood, however, that the Requisite Stockholder Approval is necessary to approve the GM Transactions).

Section 4.18. Takeover Laws. Prior to the date hereof, the Board of Directors of Hughes has taken all action necessary to exempt (a) the execution of the Hughes Transaction Agreements, (b) the Merger and (c) the transactions contemplated thereby under, or make the foregoing actions not subject to (i) any takeover law or law that purports to limit or restrict business combinations or the ability to acquire or vote shares and (ii) any stockholder rights plan or any similar anti-takeover plan or device.

Section 4.19. Restrictive Agreements. Except as set forth in Section 4.19 of the Hughes Disclosure Schedules, none of Hughes, its Subsidiaries or any employee, officer, director or consultant of Hughes or its Subsidiaries is party to or bound by any agreement, contract, policy, license, Permit, document, instrument, arrangement or commitment that materially limits, or would materially limit after the Merger Effective Time, the ability of either Hughes or any of its Subsidiaries or, to Hughes' knowledge, EchoStar or any of EchoStar's Subsidiaries, to compete in any line of business or with any Person or in any geographic area.

Section 4.20. Permits. For the purposes of this Agreement, the "Hughes Permits" shall mean all Permits issued or authorized by any Governmental Authority (as amended or modified) to, or held by, Hughes or any of its Subsidiaries (together, "Hughes Permit Entities"), including (a) all Permits issued by the FCC to any Hughes Permit Entity ("Hughes FCC Licenses") and (b) all Permits issued to any Hughes Permit Entity by a Governmental Authority (other than the FCC) authorizing such entity to provide broadcasting or other communications services (including the provision of direct-to-home video programming). Set forth on Section 4.20 of the Hughes Disclosure Schedule is a true and complete list of (i) all Hughes Permits, (ii) all pending applications for Permits that would be Hughes Permits, if issued or granted, and (iii) all pending applications by any Hughes Permit Entity for modification, extension or renewal of Hughes Permits, except that Section 4.20 of the Hughes Disclosure Schedule need not list such Hughes Permits, applications therefor or applications in respect thereof that are immaterial to the assets or business of Hughes and its Subsidiaries taken as a

whole. The Hughes Permits are all of the Permits required to be issued to or held by the Hughes Permit Entities in order to allow such entities to conduct their respective businesses as currently conducted and the Hughes Permits are in full force and effect, except where the failure to possess any such Permit or the failure of any such Permit to be in full force and effect could not reasonably be expected to have a Hughes Material Adverse Effect. Without limiting the general provisions of Section 4.9, except as set forth on Section 4.20 of the Hughes Disclosure Schedule, each of the Hughes Permit Entities is in compliance with (i) its obligations under each of the Hughes Permits owned, held or possessed by it, and (ii) the rules and regulations of the Governmental Authority issuing such Hughes Permit, except, in each case, where the failure to so comply could not reasonably be expected to have a Hughes Material Adverse Effect. Except as set forth on Section 4.20 of the Hughes Disclosure Schedule and except for proceedings affecting the satellite industry in general, to Hughes' knowledge, there is not pending or threatened before the FCC or any other Governmental Authority any proceeding, notice of violation, order of forfeiture or complaint, or investigation against any Hughes Permit Entity relating to any of the Hughes Permits that could reasonably be expected to have a Hughes Material Adverse Effect. Without limiting the general provisions of Section 4.5, Section 4.5(d) of the Hughes Disclosure Schedule lists all of the consents or approvals of, or registrations or filings by any Hughes Permit Entity with, any Governmental Authority necessary for Hughes to transfer the Hughes Permits by consummating the transactions contemplated hereby.

Section 4.21. Indian Entities. The consummation by Hughes of the transactions contemplated by the Hughes Transaction Agreements does not require action to be taken by Hughes Software Systems Limited ("HSSL") or Hughes Tele.com (India) Limited ("HTIL") or any of their respective Affiliates pursuant to the Securities and Exchange Board of India (Substantial Acquisition of Shares & Takeovers) Regulations 1997).

## ARTICLE 5

### COVENANTS OF THE PARTIES

The parties hereto agree as follows with respect to the period from and after the execution of this Agreement.

#### Section 5.1. Mutual Covenants.

(a) General. Subject to Section 5.1(b)(v) below, each of the parties hereto shall use commercially reasonable efforts (except where a different efforts standard is specifically contemplated by the Hughes Transaction Agreements or the EchoStar Transaction Agreements, in which case such different standard shall apply) to take all action and to do all things necessary, proper or advisable to consummate the Merger and the transactions contemplated by this Agreement (including using commercially reasonable efforts to cause the conditions set forth in Article 6 for which such party is responsible to be satisfied as soon as practicable and to prepare, execute and deliver such further instruments and take or cause to be taken such other and further action as any other party hereto shall reasonably request).

#### (b) Regulatory Matters.

(i) As soon as practicable, and in any event within twenty (20) business days after the date hereof, each of the parties hereto shall file any Notification and Report Forms and related material required to be filed by it with the Federal Trade

Commission and the Antitrust Division of the United States Department of Justice under the HSR Act and any similar required notifications under the laws of any foreign jurisdiction with respect to the Merger and the transactions contemplated by this Agreement and shall promptly make any further filings pursuant thereto that may be necessary, proper or advisable.

(ii) As soon as practicable after the date hereof, each of the parties hereto shall make, and shall cause their Subsidiaries to make, all necessary filings with or applications to any Governmental Authority that has issued either a EchoStar Permit or a Hughes Permit, as the case may be, with respect to the transactions contemplated by the GM Transaction Agreements, the Hughes Transaction Agreements and the EchoStar Transaction Agreements, including any necessary applications to the FCC for consent to the transfer of the EchoStar FCC Licenses and/or the Hughes FCC Licenses pursuant to the transactions contemplated hereby (the "FCC Consent Application").

(iii) The parties shall, subject to Section 5.1(b)(v) below: (A) use their best efforts to obtain prompt termination of any waiting period under the HSR Act (including any extension of the initial thirty (30) day waiting period with respect to the Merger), and neither party shall, without the prior consent of the other, agree with any Governmental Authority not to consummate the Merger for a period of time beyond the expiration of the waiting period applicable to the consummation of the Merger under the HSR Act or to extend the Closing Date to a date within the ninety (90)-day period prior to the Outside Date (as defined below); (B) furnish to the other party such information and assistance as such party reasonably may request in connection with the preparation of any submissions to, or agency proceedings by, any Governmental Authority under any Antitrust Law; (C) keep the other party promptly apprised of any communications with, and inquiries or requests for information from, such Governmental Authorities; (D) permit the other party to review any material communication given by it to, and consult with the other party in advance of any meeting or conference with, any Governmental Authority or, in connection with any proceeding by a private party, with any other Person, and to the extent permitted by such applicable Governmental Authority or other Person, give the other party the opportunity to attend and participate in such meetings and conferences; and (E) use their best efforts to cause the condition set forth in Section 6.1(b) of this Agreement to be satisfied; provided that no action shall be taken which would be reasonably likely to (1) prevent delivery of the Tax Opinions (as defined below) or the Ruling (as defined in the GM/Hughes Separation Agreement), or (2) cause the representations and assumptions underlying the Tax Opinions or the Ruling not to be true and correct in all material respects. For purposes of this Agreement, "Antitrust Law" means the Sherman Act, as amended, the Clayton Act, as amended, the HSR Act, the Federal Trade Commission Act, as amended, and all other federal, state and foreign statutes, rules, regulations, orders, decrees, administrative and judicial doctrines and other laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

(iv) Subject to Section 5.1(b)(v) below, each party shall, and shall cause its Subsidiaries to, (i) use their best efforts to diligently prosecute all applications with the FCC, including the FCC Consent Application, and all similar foreign Governmental Authorities for consent to the transactions contemplated herein, (ii) use